

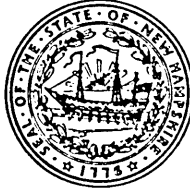
83-145-I

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November 7, 1983

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Dr. Ronald L. Powell, Commissioner-Designate  
New Hampshire Department of Corrections  
c/o New Hampshire Hospital  
105 Pleasant Street  
Concord, New Hampshire 03301

Dear Dr. Powell:

You requested our advice on whether the Division of Field Services in the Department of Corrections will have the responsibility for the supervision of minors sentenced to probation under RSA 169-B:19. For the reasons stated below, our answer to your question is in the affirmative.

It is clear that state and municipal probation officers now have the responsibility for the supervision of minors sentenced to probation. The term "probation" is defined in RSA 169-B:2 to mean "a legal status ... whereby the minor is permitted to remain in the community ... subject to ... the supervision of a probation officer or volunteer counselor, as authorized by RSA 504:19 ...". Furthermore, the probation officer's duty to supervise minor probationers is implicit in the wording of RSA 504:6 and 504:2-a. Finally, we are informed as a matter of fact that state and municipal probation officers presently supervise minors sentenced to probation.

The Department of Corrections and its Division of Field Services are established by Chapter 461 Laws of 1983. All of the powers, functions, and duties of the Board of Probation and the Director of Probation are transferred to and vested in the Commissioner of Corrections under sections 2 and 3 of Chapter 461. The Commissioner is authorized to appoint probation-parole officers "who shall have all the duties, powers and responsibilities conferred by law on state probation

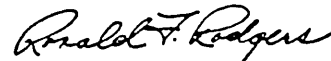


officers ...." Chapter 461:1 Laws of 1983. The responsibilities of municipal probation officers were left unchanged during the 1983 legislative session and are codified in RSA 504.

Chapter 461:1 Laws of 1983 provides the Division of Field Services "shall be responsible for supervising adults placed on probation and inmates placed on parole" yet does not specifically mention minors on probation. Absent more explicit exclusionary language that omission should not be read as an attempt to limit the absolute grant of all duties, powers and responsibilities discussed above. Because those responsibilities include the supervision of minor probationers, the probation-parole officers of the Division of Field Services will be required to supervise minors as well as adults who are sentenced to probation. Municipal parole officers will of course continue to supervise minor probationers.

I trust that the foregoing is responsive to your inquiry, however, if any questions remain do not hesitate to contact me.

Very truly yours,



Ronald F. Rodgers  
Assistant Attorney General  
Division of Legal Counsel

RFR:alh  
83-145-I  
cc: Mr. David Bundy